IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MS JUSTICE G.ROHINI**

**WRIT PETITION NO : 14082 of 2004**

Between:

T.V. Ramanaiah, S/o. Lakshmaiah,
R/o. Masaipeta, Udayagiri Mandal, Nellore District.

**..... PETITIONER**

AND

1 The Joint Collector, Nellore.
2 The Revenue Divisional Officer, Kavali, Nellore District.
3 The Mandal Revenue Officer, Udayagiri Mandal, Nellore District.

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction or writ, more particularly one in the nature of Writ of Mandamus declaring the action of the 1st respondent in not granting the stay in the appeal filed by the petitioner before him under Clause 20(1) of A.P. State Public Distribution System Control Order, 2001 against the orders of the 2nd respondent in Rc.J. 2225/2004 dated 11-7-2004, where under the authorization of the petitioner as F.P. Shop dealer of Masaipet Village of Udayagiri Mandal, Nellore District is kept under suspension under clause 17 of APPDS(Control) Order, 2001 as illegal, arbitrary and against the provisions of the A.P. State Public Distribution System Control Order, 2001 and further declare the order of the 2nd respondent dated 11-7-2004 as illegal, arbitrary and without any authority of law and violative of Article 14 of the constitution of India and set-aside the same.

**Counsel for the Petitioner: MR.V.SUDHAKAR REDDY**

**Counsel for the Respondents: GP FOR CIVIL SUPPLIES**

**The Court made the following :**

**THE HONOURABLE MS.JUSTICE G.ROHINI**

**WRIT PETITION NO.14082 OF 2004**

**ORDER:**

Heard the learned counsel for the petitioner and the learned Government Pleader for respondents.

The petitioner is the authorized dealer in respect of the fair price shop of Masaipeta village, Udayagiri Mandal of Nellore District. His authorization was suspended pending enquiry vide proceedings dated 11.7.2004 of the Revenue Divisional Officer, Kavali, second respondent herein. Aggrieved by the same, the petitioner preferred an appeal before the first respondent-Joint Collector, Nellore District. The first respondent having entertained the appeal by an order dated 28.7.2004 rejected the application filed by the petitioner for stay of the operation of order of suspension dated 11.7.2004. Aggrieved by the same, this writ petition is filed.

The learned Counsel for the petitioner contends that all the allegations made against the petitioner in the show-cause notice are false and baseless and at any rate they are trivial in nature and therefore, the first respondent is not justified in

rejecting the application for stay pending Appeal.

A perusal of the impugned order of the first respondent shows that the said order has been passed mechanically without reference to anyone of the contentions raised by the petitioner and without assigning any reasons for rejecting the stay pending Appeal.

Having regard to the facts and circumstances of the case and since the statutory appeal is pending before the Joint Collector and particularly in view of the fact that the enquiry into alleged irregularities is still continuing, I am of the view that the balance of convenience is in favour of the petitioner and it would be appropriate to allow the petitioner to distribute the commodities till disposal of the appeal.

Accordingly the impugned order dated 28.7.2004 is hereby set aside and the writ petition is disposed of with a direction to the first respondent to dispose of the appeal filed against the order of the second respondent dated 11.7.2004, as expeditiously as possible, preferably within a period of four weeks from the date of receipt of a copy of this Order. Till disposal of the appeal, the order of suspension dated 11.7.2004, passed by the second respondent shall not be given effect to.

The writ petition is accordingly disposed of. No costs.

10.8.2004.

mdaa.

Copy to:

1 The Joint Collector, Nellore.
2 The Revenue Divisional Officer, Kavali, Nellore District.
3 The Mandal Revenue Officer, Udayagiri Mandal, Nellore District.

4. Two C.Cs.to G.P.for Civil Supplies, High Court of A.P., Hyderabad(OUT)

5. Two C.D.copies.